

## **PERSONAL ASSISTANT GUIDELINES**

### **201 KAR 11:440 - EFFECTIVE JUNE 7, 2001**

The Commission has radically changed the duties that an unlicensed assistant can now perform. Below is a summary of this new regulation which specifically explains what an unlicensed assistant can and cannot legally do.

**OPEN HOUSES** - An unlicensed assistant may host an open house - which includes distributing literature, greeting guests, procuring signatures on a sign-in sheet and serving refreshments -- so long as the seller or lessor agrees to this in writing and the supervising licensee directs the assistant to hold the open house in his or her stead. This regulation allows the personal assistant to do certain specific activities but does not in any way allow the assistant to show the property or to answer any questions about the property. Any and all questions should be directed to the licensee and only the licensee can actually show the property to prospective purchasers or lessees.

**OPENING PROPERTY** - The unlicensed assistant may also copy a key for a property under the supervision and direction of the licensee. An assistant may legally open the door for any purpose relative to the transaction so long as the supervising licensee receives the consent of the owner. However, the regulation states that, when the assistant opens the property, he or she is prohibited from answering any questions relative to the property and/or showing the property to any consumers. Again, this regulation does not give the personal assistant the ability to show the property or answer questions relative to the property - it is designed simply to allow the personal assistant to aid the licensee by opening the door for inspectors, appraisers, repairmen and the like.

**GENERAL PUBLIC INFORMATION** - An unlicensed assistant may also provide four, specific pieces of general public information, namely: 1) whether a house is listed with the company; 2) whether the real estate is under contract; 3) whether a transaction has closed; and 4) the listing price of the property. An assistant can give out other information, such as square footage, number of rooms, etc., only in writing so long as the supervising licensee consents to the disclosure of the information and the disclosure will not violate the licensee's fiduciary duties to the client. Note: this is different than the definition of "general public information" used before the regulations were passed. The definition is narrower now and does not include any and all information found on a Fact Sheet.

**MISCELLANEOUS** - The unlicensed assistant's photo can appear in advertisements, so long as it is clear that the person is not licensed. The unlicensed assistant may also contact consumers for the purpose of setting an appointment. An unlicensed assistant may receive confidential information regarding a transaction so long as he or she does not disclose this information to anyone other than the supervising licensee.

**UNLAWFUL ACTIVITIES BY PERSONAL ASSISTANTS** - Unlicensed assistants may not: negotiate the terms of a contract or lease; complete offers or contracts; disclose confidential or non-public information about a property; attend a real estate closing without a supervising licensee present; access information that requires membership in a trade organization if the supervising licensee is not a member of that industry trade group; write or place advertisements without the licensee's review; express material opinions about a real estate transaction to anyone other than the supervising licensee; interpret contractual language for anyone; represent to others that he has a real estate license; or perform any activity that requires a real estate license.

**DUTIES OF SUPERVISING LICENSEE** - A supervising licensee is primarily responsible for the actions of the personal assistants working for him. The principal broker must assign one licensee - either himself or one of his agents - to supervise each personal assistant. The principal broker must inform all personal assistants under his company of the regulations and statutes governing their behavior and activities and establish a procedure so that all assistants will be properly trained. The supervising licensee is required to provide adequate supervision to his assistants and to be reasonably accessible to his assistants so that they can contact him with any questions or problems concerning pending transactions.

A word of caution: personal assistants, by definition, are not licensed. If a problem arises which constitutes a violation of licensing laws, the supervising licensee and/or the principal broker will be held responsible for that violation by the Commission - not the personal assistant. Therefore, it is advisable to train and supervise your assistants to the fullest extent possible and to screen them to ensure their ability to abide by the statutes and regulations. It is your license - protect it as best you can!